Written Testimony of the

National Pork Producers Council

On the State of the U.S. Pork Industry

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INTRODUCTION

The National Pork Producers Council (NPPC) is an association of 43 state pork producer organizations and serves as the voice in Washington for the nation's pork producers. The U.S. pork industry represents a significant value-added activity in the agriculture economy and the overall U.S. economy. Nationwide, more than 67,000 pork producers marketed more than 110 million hogs in 2010, and those animals provided total gross receipts of $15 billion. Overall, an estimated $21 billion of personal income and $34.5 billion of gross national product are supported by the U.S. hog industry. Economists Dan Otto and John Lawrence at Iowa State University estimate that the U.S. pork industry is directly responsible for the creation of 34,720 full-time equivalent pork producing jobs and generates 127,492 jobs in the rest of agriculture. It is responsible for 110,665 jobs in the manufacturing sector, mostly in the packing industry, and 65,224 jobs in professional services such as veterinarians, real estate agents and bankers. All told, the U.S. pork industry is responsible for more than 550,000 mostly rural jobs in the U.S.

Exports of pork continue to grow. New technologies have been adopted and productivity has been increased to maintain the U.S. pork industry's international competitiveness. As a result, pork exports have hit new records for 17 of the past 19 years. In 2010, the U.S. exported more than $4.8 billion of pork, which added $56 to the price that producers received for each hog marketed. Net exports last year represented about 20 percent of pork production. The U.S. pork industry today provides 21 billion pounds of safe, wholesome and nutritious meat protein to consumers worldwide.

PROFILE OF TODAY'S PORK INDUSTRY

Pork production has changed dramatically in this country since the early 1980s. Technology advances and new business models changed operation sizes, production systems, geographic distribution and marketing practices.

U.S. pork farms have changed from single-site, farrow-to-finish (i.e., birth-to-market) production systems that were generally family-owned and small by today's standards to multi-site, specialized farms many of which are still family-owned. The changes were driven by the biology of the pig, the business challenges of the modern marketplace and the regulatory environment. Separate sites helped in controlling troublesome and costly diseases and enhanced the effect of specialization. Larger operations can spread overhead costs (such as environmental protection investments and expertise) over more farms and buy in large lots to garner lower input costs. The change in sizes has been the natural result of economies of scale, plain and simple.

Marketing methods have changed as well. As recently as the early 1980s, a significant number of hogs were traded through terminal auction markets. Many producers, though, began to bypass terminal markets and even country buying stations to deliver hogs directly to packing plants to minimize transportation and other transaction costs. Today, hardly any hogs are sold through terminal markets and auctions, and the vast majority of hogs are delivered directly to plants.

Pricing systems have changed dramatically, too, from live-weight auction prices to today's carcass-weight, negotiated or contracted prices, with lean premiums and discounts paid according to the predicted value of individual carcasses. The shift to lean premiums and discounts was largely responsible for the dramatic increase in leanness in pork seen in the 1990s.

Today, the prices of about 5 percent of all hogs purchased are negotiated on the day of the agreement. All of the other hogs are sold/priced through marketing contracts or packer produced in which prices were not negotiated one lot or load at a time but determined by the price of other hogs sold on a given day, the price of feed ingredients that week or the price of lean hog futures on the Chicago Mercantile Exchange. These newer risk-management mechanisms are entered into freely and often aggressively by producers and packers alike to ensure a market for and a supply of hogs, respectively, and to reduce the risks faced by one or both parties.

Robust pork demand in both the domestic and export markets likely will make 2011 a successful year for U.S. hog producers. Pork cutout values and farm-level hog prices are near record highs, and prices of lean hog futures contracts for summer months exceeded $100 per hundred pounds carcass weight until recently. The recovering U.S. economy, the weak U.S. dollar, successful marketing efforts by producer groups, packers and processors and an expanded opportunity for pork sales to South Korea have all contributed to these strong prices.

U.S. PORK INDUSTRY CONCERNS

The demand for meat protein is on the rise in much of the world. Global competitiveness is a function of production economics, regulations, labor costs and productivity. The U.S. pork industry can continue to be a leader in food production and meet the needs of increased consumer demands as long as exports continue to grow, feed grains are available and producers are allowed to operate without undue legislative and regulatory burdens.

Trade

There is considerable global demand for pork and pork products. Pork represents 44 percent of global meat protein intake, far more than beef and poultry. And there is no disputing that free trade agreements have been a major factor in the rapid growth in U.S. pork exports over the last two decades. Since the year before the North American Free Trade Agreement was implemented in 1994, for example, U.S. pork exports to Mexico have increased 780 percent to $986 million last year; since the year before the Australia FTA was implemented, U.S. pork exports to that country have grown by 1,300 percent to $148 million; since the year before the Central America FTA was implemented, U.S. pork exports to the CAFTA countries have increased by 313 percent to $119 million; and in the two years since the Peru FTA took effect, U.S. pork exports to that South American country have almost doubled to $1.2 million. The Center for Agriculture and Rural Development at Iowa State University estimates that U.S. pork prices were $56 per hog higher in 2010 than they would have been in the absence of exports. The U.S. pork industry last year exported more than 1.9 million metric tons of pork valued at $4.8 billion.

The United States is now the lowest-cost pork producer in the world, and the U.S. pork industry has established itself as the No. 1 global exporter. But the industry will not stay in that position, even as the lowest-cost producer, if competitor countries cut trade deals in key markets and the United States does not.

U.S. pork producers have been and continue to be strong supporters of trade agreements, including the deals with Colombia, Panama and South Korea, which are pending congressional approval. Iowa State University economist Dermot Hayes estimates that, when fully implemented, those FTAs will generate more than $770 million in additional pork exports, causing live hog prices to increase by $11.35 per head and creating more than 10,200 direct pork industry jobs.

The downside of growing exports, of course, is a larger economic impact should there be any disruption in trade. Pork producers understand this dynamic and recognize that it would be devastating for U.S pork producers and the entire pork industry.

NPPC supports development of risk-management programs that would support producers and packers should U.S. export markets ever be interrupted by a serious animal disease outbreak. This is something NPPC will be working to address in the next Farm Bill.

As it demands of other countries, the United States must live up to its trade obligations. Bilateral and multilateral trade agreements lay out specific commitments for the signatories, and failure to abide by them can – and often does – lead to disputes that hurt one or more countries.

Such was the case with the trucking provision of the North American Free Trade Agreement among the United States, Canada and Mexico. The United States refused to allow Mexican trucks to haul goods into the country. Mexico took its case to a NAFTA dispute-settlement panel, which ruled that it could retaliate against the United States. In March 2009, the Mexican government placed tariffs of up to 20 percent on 89 U.S. products worth $2.4 billion; in August 2010 – after no U.S. action to resolve the dispute –

it added more products, including pork, to its retaliation list. The duties made U.S. goods going to Mexico less competitive with products from other countries and placed more than 26,000 U.S. jobs in jeopardy.

NPPC is pleased that the U.S. and Mexican governments finally have resolved the trucking dispute, that the United States will live up to its NAFTA obligation and that Mexico has agreed to suspend the tariffs on U.S. goods. Congress must allow a U.S. pilot program that lets Mexican trucks haul products into the United States to go forward. If it does not, Mexico undoubtedly will reinstate, and possibly raise, the tariffs on pork and other U.S. goods.

Feed Availability

A major reason for higher hog prices is lower production relative to just three years ago, the result of producers' responses to sharply higher costs of production. Costs for typical farrow-to-finish producers will average about $85 per hundred pounds carcass weight this year based on corn and soybean meal futures on April 1. That figure is 20 percent higher than last year and 60 percent higher than the average for 1999-2006, before the advent of federal biofuels policies. These costs are now being passed along to consumers in the form of higher retail pork prices, which set six record monthly highs during 2010 and are almost certain to set new highs this year. Indeed, the U.S. Department of Agriculture in its April 25 food inflation forecast projected that retail meat prices will rise 6 to 7 percent this year, the largest jump since 2004.

Certainly, other factors are pushing up meat prices, including increased global demand and higher transportation costs – the result of rising fuel prices. But 65 to 75 percent of pork production costs are for feed, including grains, the prices of which also have been rising rapidly. (Each market pig consumes approximately 10.5 bushels of corn and 4 bushels of soybeans in the form of meal.) Additionally, feed grain supplies, particular corn, have been getting tighter.

Even with the third largest corn crop on record, the projected 2010-2011 year-end stocks-to-use ratios for both corn and soybeans are the lowest ever. USDA recently estimated 2010-2011 crop year corn ending stocks of just 14 days, a historic low. Total corn usage, driven by nearly 5 billion bushels of corn going to ethanol production, is now routinely more than 13 billion bushels per year and still growing because of constantly rising renewable fuels mandates and, at least at present, soaring oil and gasoline prices, which make ethanol production more profitable. The ethanol industry will use more than one-third of this year's corn crop. (As an aside, USDA has overestimated the amount of dried distillers grains with solubles – DDGS, a by-product of ethanol production – that are returned to livestock producers as feed.)

U.S. pork producers are concerned about the impact on the industry of the increased use of corn for ethanol production. The U.S. pork industry strongly believes the country needs a strong renewable energy sector. However, it cannot come at the expense of the U.S. livestock industry. Reducing the use of imported oil – becoming energy independent – and focusing on renewable fuels are laudable, but markets must be neither distorted by subsidies and taxes nor constrained – or compelled – by mandates to the point where they cannot send effective price signals.

Where mandates and subsidies are allowed to exist and distort the market, it is unconscionable that long-established laws would be ignored to drive greater ethanol production. But this is the path the administration has taken in response to demands to allow an increase to 15 percent (E15) from the current 10 percent in the amount of ethanol that can be blended into gasoline. Despite the clear language in the Clean Air Act that fuel additives be safe in – not harm – all vehicles, the U.S. Environmental Protection Agency approved E15 for 2001 and newer model year vehicles. NPPC and other stakeholders filed suit against EPA over its decision. Pork producers obey the rule of law, and they expect the U.S. government to do the same.

The United States must invest in research and development for other energy alternatives, such as using animal manure and fat and biomass, including switchgrass and corn stover.

The U.S. pork industry wants to emphasize that the right balance is needed to meet the needs of fuel *and* feed security.

The increasing demand for corn has resulted in cash corn prices of more than $6.50 per bushel and corn futures prices around $7.50 per bushel. For the most part producers will adjust to higher feed grain prices, but there's not much they can do about a lack of available supplies.

Currently, only about 9 percent of corn has been planted this year compared with 46 percent at the same time last year. While NPPC has faith in the American farmers' ability to produce feed grains sufficient to meet demand, it is concerned about factors beyond their control, particularly the weather.

The last real drought in the major corn-growing states happened in 1988, 23 years ago. Of course, too much rain also could cause problems. (Last week, Reuters reported that Texas is experiencing its worst drought in 40 years and that there are widespread crop failures in the state because of it.) Should the Corn Belt suffer a drought or other weather event that reduces the harvest, there will be regional shortages of feed.

Any difficulties with this year's or next year's U.S. corn and soybean crops could be disastrous for U.S. pork producers. Ethical care of animals <u>requires</u> producers to feed them even when feed prices are high. But if there are feed shortages, livestock producers cannot simply turn a light switch to stop production and cannot stop feeding their animals. Taking animals to market before they reach market weight really isn't an option. Such an action likely would severely depress livestock prices, hurting producers' bottom line. Producers will do all in their power to secure feed to care for their animals, but Congress and the Obama administration also should be contemplating how to address physical feed shortages to avoid any potential welfare issues if such a situation does occur.

Another factor that could affect U.S. feed grain supplies is a major corn purchase by another country. According to the U.S. Grains Council, China's corn reserves are 10 million to 12 million metric tons lower than previously estimated, and it is expected to import an additional 2 million to 3 million metric tons before the end of the current crop year. Such a major purchase would make tight U.S. supplies even tighter.

NPPC has asked USDA to address potential feed-grain shortages, requesting that non-environmentally sensitive farm acres enrolled in the Conservation Reserve Program (CRP) be released early and without penalty so that they may be planted to crops. It also has asked that a contingency plan be developed should corn demand exceed supply. Unfortunately, USDA has declined to consider either option.

Legislation and Regulation

Federal legislation and regulations must not impose unnecessary costs on the U.S. pork industry or restrict it from meeting consumer demands in an economical manner; government intervention must not stand in the way of market-based solutions. The structure of the production and packing sectors should be allowed to change with the demands of the growing global marketplace. This includes allowing producers and packers to change to adopt new technologies and pricing and marketing mechanisms that enable producers to reduce their risks in the current highly volatile markets and allow packers to capture economies of scale. The U.S. pork-packing sector is the envy of the world in terms of efficiency and food safety, and legislation and regulations should not take away or hamper that source of international advantage. Allowing producers and packers the freedom to develop new ways of doing business will only enhance the value of U.S. pork products, at home and abroad, and reduce costs and risks.

Unfortunately, there are several pending federal regulations that will have the opposite effects.

Chief among them is the proposed USDA regulation on the buying and selling of livestock and poultry – the GIPSA rule. Congress in the 2008 Farm Bill asked USDA to address five specific issues related to production contracts:

- Criteria for determining whether an undue or unreasonable preference or advantage has been given to any producer.
- Whether a poultry dealer or swine contractor has provided sufficient time for a grower to remedy a breach of contract that could result in contract termination.
- Whether a poultry dealer has given reasonable notice of any suspension of delivery of birds to a grower under a contract.
- When a requirement of additional capital investment during the life of a contract constitutes a violation of the Packers and Stockyards Act as an unfair practice.
- The factors that comprise a fair usage of arbitration, including notification and the option for producers to opt out of automatic arbitration to resolve disputes.

The U.S. pork industry was stunned in June 2010 when USDA proposed a rule that not only went well beyond the five issues Congress asked it to address but included provisions considered and clearly rejected by Congress. If implemented as currently drafted, the GIPSA rule would have a devastating impact on livestock producers. According to an analysis of the rule conducted by Informa Economics, it would cost the U.S. pork industry nearly $400 million annually. Industry analysis of the regulation concluded that it likely will have a chilling effect on innovation and flexibility, leading to a race toward mediocrity. It will create legal uncertainty that will drive costs higher and cause an increase in vertical integration in the livestock sector, driving producers out of the business and possibly affecting meat supplies. All of those effects will harm the U.S. pork industry's international competitiveness, costing U.S. on-farm and pork processing jobs as well as negatively affecting the U.S. balance of trade.

NPPC continues to urge USDA to scrap the current GIPSA rule and to write a regulation that sticks to the five mandates it was given by Congress in the 2008 Farm Bill. It also requests Congress to conduct oversight hearings on the origins of the rule, the legal and economic analyses used to develop it and the rule's impact on small businesses.

Today, the U.S. pork industry has developed a wide variety of marketing and pricing methods, including contracts, to meet the changing needs of a diverse marketplace. U.S. pork producers will not be well served by having certain types of contracting mechanisms eliminated, actions that only would force livestock markets to revert to an inefficient system used more than half a century ago in which animals were traded in small lots and at prices determined in an open-market bid system. This system was inefficient and makes no economic sense in today's economy.

The U.S. pork industry opposes any legislation or regulations that restrict marketing opportunities or interventions into hog markets unless such actions address a clear, unequivocal instance of market failure or abuse of market power. To date, USDA has not presented any evidence that either is taking place.

Another challenge faced by the U.S. pork industry is the attempt by various activist groups to use the regulatory process to advance their agendas. Currently, for example, Farm Sanctuary, an anti-livestock group, is requesting USDA's Food Safety Inspection Service (FSIS) to amend its ante-mortem inspection regulations to prohibit the slaughter of all non-ambulatory livestock, including swine.

Such a ban not only would eliminate approximately 66 million pounds of safe and wholesome pork from the food chain – causing meat supply and carcass disposal problems – but would be contrary to the available scientific evidence on non-ambulatory hogs and provide no added benefit to public health, food safety or animal well-being.

Most hogs that become non-ambulatory are fatigued and will recover with adequate rest, and all animals destined for slaughter must be presented for ante-mortem inspection to FSIS inspectors as directed under the Federal Meat Inspection Act as well as an FSIS directive. Additionally, euthanizing non-ambulatory hogs would weaken the ability to detect animal diseases and eliminate a method of comprehensive disease surveillance.

A second issue involves packing plant disruptions that have taken place over alleged animal welfare problems. Many of these incidents involved FSIS animal welfare inspectors who were newly hired and had minimal training in swine behavior and handling. The disruptions – plant shutdowns – have created the potential for very serious animal welfare issues.

An FSIS directive requires plants to remain closed until a violation is resolved to prevent further inhumane acts. Consequently, shutdowns may result in trucks waiting to offload animals, indirectly causing further inhumane handling issues, including dangerous temperatures for the animals, especially during the summer months.

NPPC wants to ensure that the use of regulatory control actions, including plant shutdowns, for minor, non-egregious handling violations do not lead to secondary animal welfare issues when trucks are not diverted to other plants. It also would like FSIS animal welfare inspectors to be better trained – FSIS has new training materials on animal handling – and, when egregious violations do occur, for inspectors to divert trucks to other plants.

Pork producers also have concerns about a proposed guidance issued in June 2010 by the U.S. Food and Drug Administration. Draft Guidance #209 (The Judicious Use of Medically Important Antimicrobial Drugs in Food-Producing Animals) recommends that livestock producers eliminate from food-animal production antibiotics used to promote feed efficiency.

But the majority of the FDA-approved antibiotics that are labeled only as growth promotants actually prevent disease or illness. So eliminating them undoubtedly will lead to an increase in illness and disease in pigs and a corresponding increase in the amount of antibiotics needed to treat illness and disease. Banning antibiotics that are known to prevent illness in livestock has serious animal well-being implications.

While the draft guidance would allow such antibiotics to be used after they are submitted to FDA for re-review and the agency determines they prevent disease or illness, that process is prohibitively expensive and time consuming, typically costing millions of dollars and taking seven to 10 years to complete.

Although the guidance does not have the force of law, producers are concerned that it may be treated as such by FDA, which is being pressured by opponents of modern animal agriculture and several public health groups to address an increase in antibiotic-resistant illnesses in humans, which they blame on the use of antibiotics in livestock and poultry production. (There is no scientific evidence linking antibiotic use in livestock with antibiotic resistance in people.)

It must be noted that FDA's animal drug approval process requires that products not only be efficacious and safe for animals but also that they do no harm to human health and the environment.

The pork industry's Take Care: Use Antibiotics Responsibly program educates producers on proper uses of animal health products, which are employed as part of an overall herd health plan developed in consultation with veterinarians. Prohibiting the use of any of these important tools will jeopardize animal health, increase production costs and, potentially, lead to higher retail meat prices.

Pork producers take a broad view of what it means to be environmentally responsible farmers and business people and have fully embraced the fact that their operations must protect and conserve the environment and the resources they use and effect. Producers take this responsibility with the utmost seriousness and commitment, and it was in that spirit that they have made major commitments to environmental conservation.

Today, the pork industry is meeting EPA's stringent zero-discharge standards for livestock operations under the Clean Water Act (CWA). Yet, despite that success, EPA continues to pressure the industry.

As an example, in its 2008 CAFO Rule – which includes the zero-discharge standard – EPA, at the urging of environmentalists, ignored the 2005 decision of the U.S. Court of Appeals for the 2nd Circuit in *Waterkeeper* that there was no duty for a producer who was not discharging to apply for a CWA permit. It illegally expanded its jurisdiction to include not just a requirement that operations that are discharging obtain a permit but also that operations that might have discharges in the future obtain them. To make matters worse, EPA also reversed the burden of legal proof and the long-standing due process notion of innocence until proved guilty by demanding that producers prove to the agency that, even though they don't discharge today, they won't discharge 20 years from now.

NPPC led the charge on behalf of all livestock producers against this, and in March the Court of Appeals for the 5th Circuit ruled in *National Pork Producers Council vs. EPA* that EPA could only require permits from livestock farms that are actively discharging and that it was unlawful for the agency to speculate about future conditions.

While the *National Pork Producers Council* decision is a major victory over EPA, it has not ended the pressure that producers feel from the agency. Last May, as part of the litigation, EPA entered into a sweetheart settlement agreement with several environmental groups. That settlement resulted in a guidance document being released two days later – with no industry input – that stated in clear terms that EPA had decided to regulate dust that has blown out of hog barns through ventilation fans, lands on the ground and mixes with rainwater as a regulated discharge of a pollutant under the Clean Water Act. Furthermore, the deal required EPA to propose by May 25, 2011, that all large livestock operations, with or without a history of actually discharging and without evidence that discharging is occurring, to submit detailed information to EPA about their operations. EPA agreed to post the information in a national database available online and accessible to the general public, including environmental activists. Producers would have to submit nearly all the business data and manure management records that would be required under a CWA permit, including their nutrient management plans.

On the air emission side of the equation, NPPC is proud of its leadership in helping to organize and negotiate the groundbreaking Livestock Air Consent Agreements and the National Air Emissions Monitoring Study (NAEMS). The NAEMS was a multi-year study, funded by livestock producers and carried out by university scientists under protocols and controls developed and overseen by EPA. The purpose of NAEMS was to develop a better scientific understanding of the emissions associated with livestock production, and it included monitoring of a number of species around the country. The data from that study was transmitted to EPA last summer, and the agency is currently in the process of reviewing it and developing species-specific air emissions factors.

After spending a number of years developing and implementing the data collection efforts, and at a cost of millions of producer-contributed dollars, NPPC is deeply concerned that EPA will not commit the resources and expertise needed to develop top quality and sound emissions factors from this data. NPPC is urging EPA to take the time it needs to bring the right personnel to bear on the task of fully understanding the data that was collected and to make use of scientific expertise at USDA as part of that effort. Unfortunately, this has not yet taken place.

CONCLUSION

The U.S. pork industry is the lowest-cost producer and No. 1 exporter of pork in the world, and U.S. pork producers continue to produce the most abundant, safest, most nutritious pork in the world. They have proved very resilient, most recently weathering financial crises in 1998-1999 and 2008-2009 as well as the vagaries of a free market economy, all while investing in and adopting new technologies that have promoted animal health, protected the environment and added thousands of jobs and billions in national income to the American economy.

To continue as leaders in the global and domestic economies, the U.S. pork industry requests that federal policies and regulations support the American farmer and not hinder – as the proposed GIPSA rule would – his or her ability to feed the world.